IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5464 OF 2005

Krishna Kashiram Sable & Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.V.V.Purwant for the Applicants
Mr.R.Y.Mirza, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 30,2005

P.C.:

1. Heard learned Advocate for the Applicants and the learned A.P.P. for State. The offence has been registered against the Applicant under Section 302 read with Section 34 of the Indian Penal Code.

2. The allegation of the prosecution witnesses seems to be that the Applicants assaulted deceased Gaurishankar by kicks and fist blows. Further allegation is that the Applicant No.2 Kashiram lifted the deceased and banged his head against a stone. The learned Advocate for the Applicant submitted that injury to the head of the deceased appears to have been caused accidentally and application of section 302 of I.P.C. is unwarranted. The learned A.P.P. has placed on record material against the Applicant.

3. P.M.Notes show that there is one injury on the head in right frontal region and there is haemorrhage in the brain.

There is also haematoma formed over the right frontal lobe of the brain below the injured area. The opinion as regards the probable cause of death is that death is caused due to head injury with injury to the brain. Apart from head injury, there seem to be only two superficial abrasions over the body of the deceased.

4. Thus, at this stage, it appears that the Applicant No.2 is the accused who is responsible for fatal injury on the head of the deceased. The allegation against the other Applicants is regarding giving fist blows and kicks. P.M.Notes do not show that any injury is caused on the person of the deceased due to fist blows or kicks.

5. The complicity of the Applicant No.2 in a brutal offence is borne out from the material on record. However, a case is made out for enlarging the Applicant Nos.1,3 and 4 on bail.

6. Hence I pass the following order :

i) Application of Applicant No.2 is rejected.

i) The Applicant No.1-Krishna Kashiram Sable, No.3-Shrishail Krishna Sable, No.4-Satyavva @ Satyabhama Krishna Sable shall be enlarged on bail in connection with C.R.No. 11/2005 registered with Mandrup Police Station,Solapur subject to

furnishing a personal bond of Rs.10,000/- (Rupees ten thousand) each with one or two sureties each in the like amount.

ii) Bail is granted subject to the condition that the Applicant Nos.1,3 and 4 will report to the concerned Police station once in a week till conclusion of trial.

iii) The Bail is granted subject to condition that the Applicants No.1,3 and 4 shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE